

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1695.01
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	February 16, 2001
DATE OF REPORT:	March 15, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 25, 2001

COMPLAINT ISSUES:

Whether the Gary Community School Corporation violated:

511 IAC 7-29-1 with regard to the school's alleged failure to comply with the requirements of IC 20-8.1-5.1 *et seq.* and 511 IAC Article 7, Rule 29 when suspending a student with a disability.

511 IAC 7-27-2(a) with regard to the school's alleged failure to schedule the case conference committee (the "CCC") meeting at a mutually agreed upon date and time.

511 IAC 7-27-2(c) and 511 IAC 7-17-3 with regard to the school's alleged failure to provide the parent with adequate notice of the CCC meeting.

511 IAC 7-27-3(a)(1)(A), (B), and (C) with regard to the school's alleged failure to ensure that the CCC participants included a representative of the public agency.

511 IAC 7-25-7 with regard to the school's alleged failure to conduct an evaluation and convene the CCC within sixty instructional days of the date of the parent's written consent.

FINDINGS OF FACT:

1. The student (the "Student") is eighteen years old and is a sophomore at the local high school (the "School"). The Student is eligible for special education and related services as a student with a learning disability.
2. The Student was suspended from the School on January 5, 2001, pending an expulsion. The complainant (the "Complainant") reported that she was told by the assistant principal (the "Assistant Principal") that the Student was on a "cooling off" period, and that further information would be forthcoming.
3. On January 27, 2001, the Complainant received a *Notice of Case Conference/Case Review Meeting First Notice* (the "Notice") in the mail. The *Notice* indicated that the CCC meeting was scheduled for January 29, 2001, to determine whether the Student's behavior was a manifestation of the Student's disability. This was the first correspondence the Complainant received from the School.
4. The CCC was held on January 29, 2001, and the following individuals attended: the Student, the complainant, the teacher of record, a general education teacher, a special education teacher, the Assistant Principal, the social worker, the guidance counselor, the School nurse, and the special

education facilitator. The Assistant Principal, who served as the public agency representative, left during the CCC meeting. The Complainant contends that the Assistant Principal left because he wanted to expel the Student for forty-five more days, but other members of the CCC disagreed. A plan for a functional behavior assessment was developed, although the meeting continued without all required participants in attendance. A determination was made that the Student's behavior was a manifestation of his disability.

5. The complaint investigator requested a copy of the Student's attendance report from the local supervisor of special education (the "Supervisor"); however, it was not provided. The Supervisor reported that the Student returned to School on January 10, 2001.
6. The Complainant reported that she never received any written information regarding the Student's disciplinary action. The Complainant reported that the Student returned to School the day after the January 29, 2001, CCC meeting.
7. The Supervisor has submitted a plan of action that will be implemented with regard to including all required participants during the CCC meeting process, in particular ensuring that she would attend as the agency representative.
8. The Supervisor has acknowledged that the suspension procedures required by 511 IAC Article 7 were not followed. The Supervisor has submitted a plan of corrective action that will be implemented with regard to the interruption of services to the Student's educational program.
9. The Supervisor has acknowledged that the January 29, 2001, CCC meeting was not scheduled at a mutually agreed upon date and time and that the Complainant did not receive adequate notice of the CCC meeting. The Supervisor has submitted a plan of corrective action that will be implemented with regard to scheduling CCC meetings at a mutually agreed upon date and time, and providing adequate notice.
10. The Complainant contends that at a CCC meeting held on November 17, 2000, she signed a consent for the Student to be evaluated.
11. On February 2, 2001, the local school corporation's assessment office (the "Assessment Office") received a signed parental consent for evaluation dated January 31, 2001, from the Complainant. The evaluation was completed February 21, 2001; however, the CCC has not yet been scheduled.
12. The Supervisor reported that the Assessment Office received no parental consent to evaluate the Student prior to February 2, 2001. However, the *IEP* written at the January 29, 2001, CCC meeting includes a written notation at the top of the first page that states "2nd Request."
13. The Supervisor has submitted a plan of corrective action that will be implemented regarding completing the Student's evaluation and conducting the CCC meeting within 60 instructional days.
14. The Supervisor also reported that inservice training is currently being prepared to address all of the issues of this complaint.

CONCLUSIONS:

1. Findings of Fact #2, #3, #6, and #8 indicate that the procedures utilized when suspending the Student were not followed as required by IC 20-8.1-5.1 et seq. and 511 IAC Article 7, Rule 29. A violation occurred, and the Supervisor has submitted a plan of corrective action to be implemented.

2. Findings of Fact #3, #4, and #9 indicate that the CCC meeting was not scheduled at a mutually agreed upon date and time. A violation occurred, and the Supervisor has submitted a plan of corrective action to be implemented.
3. Findings of Fact #3, #4, and #9 indicate that the Complainant was not provided adequate notice of the CCC meeting. A violation occurred, and the Supervisor has submitted a plan of corrective action to be implemented.
4. Findings of Fact #4 and #7 indicate that the required CCC membership did not include a public agency representative for the duration of the meeting. A violation occurred, and the Supervisor has submitted a plan of corrective action to be implemented.
5. Findings of Fact #10, #11, #12, and #13 indicate that the Student was not evaluated, nor did the CCC meet within 60 instructional days of receiving the parent's written consent in November 2000. A violation occurred, and the Supervisor has submitted a plan of corrective action.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Gary Community School Corporation shall:

1. convene the Student's CCC to identify the number of days an interruption of services occurred, and consider the need for compensatory services. A copy of the *CCC Report* and *IEP* shall be submitted to the Division no later than April 20, 2001.
2. complete a telephone call to the Complainant in order to schedule the CCC at a mutually agreed upon date and time, and to assure that the Complainant has received adequate notice. Follow-up the telephone conversation by sending a *Notice* to the Complainant as a confirmation of said conversation, and to ensure the Complainant's participation in the CCC meeting. Documentation of the telephone call, along with a copy of the *Notice* shall be submitted to the Division no later than April 20, 2001.
3. include the Supervisor's participation as the public agency representative at the CCC meeting. A copy of the *CCC Report* and *IEP* shall be submitted, as indicated in Corrective Action #1, no later than April 20, 2001.
4. conduct inservice trainings regarding the following:
 - a. procedures to follow when suspending a student with a disability;
 - b. procedures to follow when scheduling a CCC meeting to ensure that the meeting is conducted at a mutually agreed upon date and time;
 - c. procedures to follow to ensure that the parent has been provided adequate notice of a CCC meeting;
 - d. procedures to follow to ensure that the CCC participants include a public agency representative; and
 - e. procedures to follow to ensure that an educational evaluation and CCC meeting are conducted within 60 days of receiving a parent's written consent.

A copy of the inservice training agendas, inservice materials, and a sign-in sheet of all attendees by name and title, shall be submitted to the Division no later than April 20, 2001.

